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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,362	09/21/2000	Michael N. Grimbergen	2813.P1/USA/SILICON	9755

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EXAMINER

LUND, JEFFRIE ROBERT

ART UNIT PAPER NUMBER

1763

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/667,362

Applicant(s)

GRIMBERGEN ET AL.

Examiner

Jeffrie R. Lund

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12, 13, 15-18, 20, 22-34 and 36-69 is/are pending in the application.
- 4a) Of the above claim(s) 16, 17, 24-29, 37-50 and 65-69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 15, 18, 20, 22, 23, 30-34, 36 and 51-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 4                      6) ☐ Other:

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of Group I, Claims 1-15, 18-23, 30-36, and 51-64 in Paper No. 10 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Priority***

2. The newly amended claims are directed to material added to the parent application 09/096,728 as part of the CIP of the current application. Therefore, the priority date of the present claims is determined to be September 21, 2000.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 4, 12, 13, 18, 20, 30, 34, and 36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tauchi et al, JP 09-232,099.

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Tauchi et al teaches a quartz wall with a plurality of recesses as seen in figures 1-7, and discussed throughout the specification. The recesses inherently reduce the deposition of material therein.

5. Claims 1, 3-10, 12, 13, 18, 20, 22, 30, 32, 34, 36, 51, 52, 56-62, and 64 rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hofmann et al, US Patent 6,132,566.

Hofmann et al teaches the claimed invention in figures and throughout the specification, specifically, Table I, column 8 lines 8-22, and column 9 lines 1-20.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 15, 23, 31, 55, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et al in view of Imatake et al, US Patent 5,759,424.

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Hofmann et al teaches a quartz wall with a plurality of recesses sized to reduce deposition in the recess.

Hofmann et al differs from the present invention in that Hofmann et al does not teach a process monitoring system or a mask covering part of the wall.

Imatake et al teaches a process monitoring system 3, 4 that includes a mask 14 (figure 4, column 14 lines 4-39).

The motivation for adding the process monitoring system is to monitor the process in the processing chamber. The motivation for adding a mask is to further prevent the deposition of material on the wall.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the process monitoring system and mask of Imatake et al to the apparatus of Hofmann et al.

8. Claims 33, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et al.

Hofmann et al was discussed above.

Hofmann et al differs from the present invention in that Hofmann et al does not teach the recesses are inclined at an angle other than 90 degrees. The selection of the angle of inclination of the recesses is an optimization of a dimension, i.e. the angle of inclination. It was held in *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), by the Federal Circuit that, where the only difference between the prior art and the claims was a ~~recitation of relative dimensions of the claimed device and a device having the claimed~~ relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. (Also see MPEP 2144.04 (d)) Furthermore, it would have been obvious to one of ordinary skill in the art to optimize the angle of inclination to minimize the deposition or to ensure that the radiation be transmitted through the wall at the proper angle.

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Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the angle of inclination of the recess of Hofmann et al.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-10, 12, 13, 15, 18, 20, 22, 23, 30-34, 36, and 51-64 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

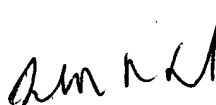
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrie R. Lund whose telephone number is (703) 308-1796. The examiner can normally be reached on Monday-Thursday (6:30 am-6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Mills can be reached on (703) 308-1633. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeffrie R. Lund  
Primary Examiner  
Art Unit 1763

JRL  
August 11, 2003

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